

Case No. CI 09-542 **MAY 05 2010**

*Deane H. Wells*  
 CLERK OF THE DISTRICT COURT  
 DEPUTY

STATE OF NEBRASKA, ex rel., )  
 MICHAEL J. LINDER, Director )  
 DEPARTMENT OF ENVIRONMENTAL )  
 QUALITY, )  
   Plaintiff, )  
   v. )  
 LARRY ECKEL, )  
   Defendant. )

**FIRST AMENDED COMPLAINT**

The State of Nebraska, on behalf of the Nebraska Department of Environmental Quality (NDEQ), alleges the following:

1. NDEQ is the agency of the State of Nebraska charged under Neb. Rev. Stat. § 81-1504(1) (Reissue 2008), with exercising exclusive supervision of the administration and enforcement of the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2008), the Integrated Solid Waste Management Act, Neb. Rev. Stat. § 13-2001 *et seq.* (Reissue 2007, Cum. Supp. 2008) and all rules, regulations, and orders promulgated under those Acts, including Title 132 of the Nebraska Administrative Code, "Integrated Solid Waste Management Regulations."

2. Larry E. Eckel is and was at all relevant times a resident of Lancaster County, Nebraska.

**FIRST CLAIM**

3. In February 2007, Eckel demolished a building in Clatonia, Gage County, Nebraska. Thereafter, on or before February 22, 2007, Eckel dumped and disposed of the solid waste resulting from the building demolition (including wood, bricks, plastic,



metal, and concrete) on land and into a creek on real property owned by Beverly Banks located in Gage County, Nebraska (the Banks property).

4. The Banks property is not and was not a permitted solid waste management facility holding a current permit issued by the NDEQ under the Integrated Solid Waste Management Act permitting the disposal of solid waste.

5. Neb. Rev. Stat. § 81-1506(3)(d) and Neb. Rev. Stat. § 81-1516 makes it unlawful for any person to dispose of any solid waste at any location other than a solid waste management facility holding a current permit issued by NDEQ under the Integrated Solid Waste Management Act.

6. Neb. Rev. Stat. § 81-1506(3)(a) makes it unlawful for any person to construct or operate a solid waste management facility without first obtaining a permit. Eckel was not and is not permitted or authorized to operate a solid waste management facility, as defined by Neb. Rev. Stat. § 81-1502(37) and Neb. Rev. Stat. § 13-2010 (Reissue 2007).

7. On March 6, 2008, the director of NDEQ issued a written Complaint, Compliance Order and Notice of Opportunity for Hearing (the administrative order) to Eckel. Eckel was served with the administrative order on May 12, 2008. A true and accurate copy of the administrative order is attached to this complaint as Exhibit 1 and incorporated in this complaint.

8. The administrative order notified Eckel that in accordance with Neb. Rev. Stat. § 81-1507(2), it would become final unless Eckel filed an answer and request for hearing, in writing, no later than thirty days after receipt of the administrative order, and

further, that failure to answer within thirty days shall be deemed an admission of the allegations of the Complaint.

9. Eckel failed to file an answer and failed to request a hearing.

10. Neb. Rev. Stat. § 81-1508.02(2) provides that each violation of Neb. Rev. Stat. § 81-1506 shall subject a person to a civil penalty of no more than \$10,000 dollars per day, and in case of a continuing violation, each day shall constitute a separate offense.

### SECOND CLAIM

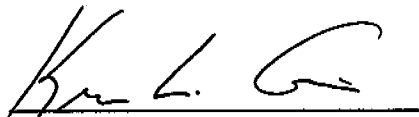
11. The State incorporates each of the allegations in paragraphs 1, 2, 5, 6, and 10 above.

12. Between July 2006 and December 2, 2009, Eckel dumped and disposed of solid waste on property owned by him near the city of Waverly, in Lancaster County, Nebraska. Eckel's property is not and was not a permitted solid waste management facility holding a current permit issued by the NDEQ under the Integrated Solid Waste Management Act permitting the disposal of solid waste. Eckel was not and is not permitted or authorized to operate a solid waste management facility, as defined by § 81-1502(37) and § 13-2010.

The State requests that this Court enter judgment in favor of the State and against Eckel in the form of civil penalties as provided in § 81-1508.02(2), and that all costs of this action be taxed to Eckel.

STATE OF NEBRASKA, ex rel.,  
MICHAEL J. LINDER, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY, Plaintiff

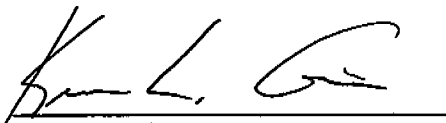
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*Attorneys for Plaintiff.*

#### CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing First Amended Complaint was served on the defendant by United States Mail, first class postage prepaid, on this 28<sup>th</sup> day of April, 2010, addressed to:

Larry Eckel  
6860 Benton Street  
Lincoln, NE 68507

  
Kevin L. Griess  
Assistant Attorney General